

## **REMARKS**

In the Office Action issued on July 18, 2008, the Examiner:

- rejected claims 8 and 36 under the judicially created doctrine of obviousness-type double patenting over Claims 1 through 29 of Claims 1 through 29 of copending Application Serial No. 10/828,716;
- rejected Claims 8 and 36 under 35 U.S.C. §102(e) as being anticipated by United States Patent Application Publication No. 2003/0130726 to Thorpe ("Thorpe");
- rejected Claims 8 and 36 under 35 U.S.C. §102(e) as being anticipated by United States Patent Application Publication No. 2002/0138135 to Duerig ("Duerig"); and

The Applicants have fully considered the July 18, 2008, Office Action and cited references and submit this Reply and Amendment in response to the Examiner's rejections. Reconsideration of the application for patent is requested.

### Initial matter – attorney not of record acting in representative capacity

As an initial matter, please note that the undersigned attorney is not of record and is currently acting in a representative capacity pursuant to 37 C.F.R. §1.34 (See M.P.E.P. §405).

### Initial matter – Interview Summary

The Applicants thank the Examiner for the telephone interview conducted on September 17, 2008. While no agreement with respect to the claims was reached, the Examiner's thoughts and suggestions regarding proposed claim amendments is considered helpful and is the basis for the amendments made

herein.

Provisional rejection of claims for double patenting over copending applications

The Examiner rejected all pending claims for obviousness-type double patenting over Claims 1 through 29 of copending Application Serial No. 10/828,716.

With entry of this amendment, Claim 8 is the only pending claim. In consideration of other rejections raised in the subject Office action, the Applicants have herein amended independent Claim 8. Thus, all claims currently under consideration have been amended.

Applicants respectfully assert that the remaining claim defines subject matter that is patentably distinct from the subject matter defined by the listed claims of the cited copending application. Accordingly, reconsideration of the provisional double patenting rejection is requested.

Rejection of claims under 35 U.S.C. §102(e) - Thorpe

The Examiner rejected Claims 8 and 36 under 35 U.S.C. §102(e) as being anticipated by Thorpe.

Applicants have herein canceled claim 36. The rejection of this claim is, therefore, moot.

**Applicants have herein amended remaining independent claim 8 to require that:**

**the support frame comprise frame elements around which the first and second outer edges of the two or more leaflets are wrapped to allow the first and second outer edges of each of the two or more leaflets to non-circumferentially engage a wall of the vascular vessel; and**

**the centering support element include a portion that traverses one of the two or more leaflets from the first outer edge to the second outer edge and is free of contact with the proximal leaflet surface and the distal leaflet surface of one of the two or more leaflets.**

These amendments to the claims are fully supported by the application as filed; no new matter has been introduced. Exemplary support is found in Figure 84 and paragraph [0144].

Thorpe fails to meet at least these limitations of Claim 8. The reference cannot, therefore, properly serve as a basis for rejection under 35 U.S.C. §102.

Applicants respectfully assert that this rejection of the claims has been overcome and request its withdrawal.

Rejection of claims under 35 U.S.C. §102(e) - Duerig

The Examiner rejected Claims 8 and 36 under 35 U.S.C. §102(e) as being anticipated by Duerig.

Applicants have herein canceled claim 36. The rejection of this claim is, therefore, moot.

Applicants have herein amended remaining independent claim 8 to require that a portion of the centering support element traverse the proximal and distal leaflet surfaces of one of the leaflets and that it be *free of contact with the these leaflet surfaces*.

Duerig fails to meet at least this limitation. The reference cannot, therefore, properly serve as a basis for rejection under 35 U.S.C. §102.

Applicants respectfully assert that this rejection of the claims has been overcome and request its withdrawal.

## **CONCLUSION**

The Applicants have fully responded to the rejections listed by the Examiner in the July 18, 2008, Office Action. The Applicants respectfully assert that the remaining independent claim currently under consideration defines patentable subject matter and that a Notice of Allowability is appropriate.

The Applicants have submitted this Reply and Amendment under the provisions of 37 C.F.R. §1.116 in order to present the claims in better condition for appeal, should an appeal be pursued. Entry of the amendment is respectfully requested.

Additionally, Applicants respectfully request that the Examiner issue an Advisory Action indicating the status of this Reply and Amendment.

Should the Examiner have any questions regarding this Reply and Amendment, or the remarks contained herein, the undersigned attorney would welcome the opportunity to discuss such matters with the Examiner.

Respectfully submitted,

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